

State of South Dakota

SEVENTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 1997

574A0575

HOUSE BILL NO. 1099

Introduced by: Representatives de Hueck, Broderick, Brown (Jarvis), and DeMersseman and
Senators Munson (David) and Flowers

1 FOR AN ACT ENTITLED, An Act to revise certain provisions relating to liens.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. That § 32-3-41 be amended to read as follows:

4 32-3-41. ~~Any mortgage, conveyance intended to operate as a mortgage, conditional sales~~
5 ~~contract~~ Any security interest, mechanic's lien, or similar instrument other than a financing
6 statement covering a motor vehicle, trailer, or semitrailer, if the instrument is accompanied by
7 delivery of the manufacturer's statement of origin or the manufacturer's certificate of origin and
8 followed by actual and continued possession of the same by the holder of the instrument, or in
9 the case of the certificate of title, if a notation of same has been made by the secretary or county
10 register of deeds on the face thereof or if notation of same has been made by the seller, buyer,
11 owner, or holder of the instrument on the reverse thereof, shall be valid against the creditors of
12 the ~~mortgagor~~ debtor, whether armed with process or not, and subsequent purchasers;
13 ~~mortgagees~~ and other lien holders or claimants, but otherwise is not valid against them.

14 Section 2. That § 42-8-82 be amended to read as follows:

15 42-8-82. A security interest created in this state in a large boat, and as defined by §§ 42-8-71

1 to 42-8-74, inclusive, and §§ 42-8-76 to 42-8-84, inclusive, on and after March 1, 1992, is not
2 perfected until the security interest is noted on the certificate of title. On or after July 1, 1993,
3 a security interest created in this state on a large boat, as defined in § 42-8-2, exclusive of a
4 motorboat is not perfected until the security interest is noted on the certificate of title. On or
5 after July 1, 1994, a security interest created in this state on a large boat, as defined in § 42-8-2,
6 is not perfected until the security interest is noted on the certificate of title. To perfect the
7 security interest, a copy of the security agreement shall be presented along with the original title.
8 The register of deeds, or the seller, buyer, owner, or holder of the instrument shall note the
9 security interest ~~on the face of the title~~ at any place on the instrument, and if so noted, the lien
10 shall be perfected against the creditors of the debtor, shall be valid against the creditors of the
11 debtor, whether armed with process or not, and subsequent purchasers and other lien holders or
12 claimants, but otherwise is not valid against them. The fee for noting the lien is five dollars. The
13 fees shall be credited to the county general fund. The certificate of title shall be presented to the
14 county register of deeds if a lien is to be noted on an existing certificate of title.

15 The owner shall present the certificate of title to the county register of deeds when a release
16 statement is filed.